

REMARKS

In response to the Restriction Requirement under 35 U.S.C. §121, dated June, 6, 2007, Applicants elect, with traverse, the combination of SEQ ID NOs: 1, 3, 7, 8, 11, 21, 40, 59, 63, 70, and 331.

Applicants respectfully request entry of the amendment to claim 1, new claims 83-115, and cancellation of claims 2-82, without prejudice or disclaimer. Upon entry of the present amendment, claims 1 and 83-115 will be pending.

The amended and new claims are supported throughout the specification, including paragraphs [0021], [0045], [0133], [0191], [0235], [0242], and [0294] of the published application, and by the claims as originally filed. As such, these claims do not add new matter. Accordingly, entry of the amendments is respectfully requested.

As Applicants representative had stated in the interview of May 9, 2007, the filing of an Request for Continued Examination (RCE) on March 28, 2007 and amendments therein were based on what the Examiner of Record required, as memorialized in the Advisory Action of January 25, 2005. It was during the interview of May 9, 2007, that Applicants representative was informed of the transfer of the instant case to a new examiner, and even though Applicants filed the RCE in good faith, and amended the claims in accordance with the Advisory Action of January 25, 2005, Applicants were told that a new restriction would be required, as well as a request for new limitations to the claims. While this would seem to be inappropriate “piecemeal” prosecution (see, M.P.E.P. §707.07(g)), Applicants, again in good faith, have provided the claim amendments and new claims to further prosecution toward allowance.

Applicants submit that, as a general proposition, method claims are defined by the positive process steps recited in the claims (NTP, Inc. v. Research in Motion, Ltd., 418 F.3d 1282 (Fed. Cir. 2005), and although recitation of specific sequences can serve to define elements within the process steps, Applicants are not limited to such recitations, and are limited only by the standards under 35 U.S.C. §112 (Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., 62 U.S.P.Q.2d 1705 Fed. Cir. 2002)). Accordingly, the claims have been amended to no longer recite specific sequences, and the claims recite, as positive process steps: how the

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appropriate SNPs are identified (e.g., using select frequency differentials values between population) coupled with the use of the identified SNPs to infer trait and proportional ancestry of an individual (e.g., determining the occurrences of the SNPs in a sample from an individual). Such positive process steps are explicitly recited, defined, and exemplified in the specification as filed, and because these steps are sequence independent, the species election with respect to specific sequences is rendered moot.

The amended and new claims as presented are not directed to an invention distinct from or independent of the invention as previously claimed and elected (i.e., Group I, directed Claims 1, 3-9, 12, 15, 16, 21-22, 24, 29-32, 37-45, and 47-58; see, Restriction Requirement of September 22, 2005), and as such, Applicants respectfully request that amended claim 1 and new claims 83-115 be entered and examined on the merits.

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Conclusion

The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this submission.

No fee is deemed necessary with the filing of this paper. However, the Commissioner is hereby authorized to charge any fees that are required, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A copy of the Transmittal Sheet is enclosed.

Respectfully submitted,


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